

1. Introduction

This leaflet sets out guidelines on employee entitlements under the Maternity Protection Act 1994-2004. It is not a legal interpretation of the Act.

2. Who is covered by the Act?

Anybody under a contract of employment is entitled to protection under the Maternity Protection Act 1994-2004. There is no service qualification for any of the rights given under the Act which applies to all pregnant employees.

3. Maternity Leave

- You have the right to a minimum period of 26 consecutive weeks' maternity leave.
- A minimum of 2 weeks leave must be taken before the last day of the week during which the baby is expected to be born and a minimum of 4 weeks after this date.
- If the baby is born more than 4 weeks earlier than expected and if you have not already commenced maternity leave, you will be entitled to 26 weeks maternity leave from the date of the birth.
- Your employer must be notified in writing within two weeks of the birth.
- If the baby is born late and you have less than 4 weeks maternity leave left when your baby is born then your maternity leave may be extended so that you still have 4 weeks maternity leave after the week of the birth. Your employer must be notified in writing of such an extension and the reason for it as soon as possible.
- You must give written notification to your employer of your intention to take maternity leave, at least 4 weeks before starting maternity leave.

4. Additional Maternity Leave

- You have the right to up to 16 weeks additional maternity leave without pay.
- Additional maternity leave must commence immediately after maternity leave has ended.
- You must give written notification to your employer of your intention to take additional maternity leave, at least 4 weeks before starting the leave.
- You cannot revoke notice of additional maternity leave later than 4 weeks before the end of your maternity leave.

5. Ante-natal Classes & Medical Appointments

- You have the right to time off from work without loss of pay for the purpose of attending one set of ante-natal classes (other than the last 3 classes in such a set), and those classes may be attended by her during one or more pregnancies.
- Expectant fathers/partners also have a once-off entitlement to paid time off to attend the last 2 ante-natal classes immediately prior to the birth.
- At least two weeks' written notice must be given before the first class of dates/times of classes, or where all are not known, two weeks' before each class.
- You have the right to time off without loss of pay for ante-natal and post-natal medical care appointments.
- At least two weeks written notice must be given in advance of visits and proof must be produced if requested.

6. Payment while on Maternity Leave

Under the Act, an employer is not obliged to pay an employee during maternity leave, additional maternity leave, and paternity leave or after the first 21 days of health and safety leave.

7. Maternity Benefit

- If you satisfy certain PRSI contribution conditions you will be paid maternity benefit directly from the Dept of Social Protection.
- To claim maternity benefit, you must have the claim form for benefit completed correctly and returned to the above Dept at least 6 weeks before maternity leave starts.
- If you are an EU citizen, you can continue to receive Maternity Benefit for any period of your maternity leave spent in another EU country or for any period of up to six weeks spent in a country outside the EU.
- If you are not an EU citizen you can be paid Maternity Benefit for any period of your maternity leave spent in the Republic of Ireland. You can continue to receive Maternity Benefit for any period of up to six weeks of your maternity leave spent in a country outside of the Republic of Ireland (EU and Non-EU). If you exceed this period Maternity Benefit will cease until such time as you return to the Republic of Ireland.

8. Health and Safety Leave

- Your employer must assess your workplace for risks to pregnant workers, workers who have recently given birth or who are breastfeeding. Where it is established that you are at risk if you continue to do your current job and the risk cannot be eliminated through adjusting your work or changing working hours, and no suitable alternative work can be found, then you must be granted health and safety leave.
- You are entitled to be paid by your employer for the first 21 days of this leave, which may arise in one continuous period or a number of shorter periods.
- If you satisfy certain PRSI contribution conditions you will be paid Health and Safety benefit by the Dept of Social Protection.

9. Breastfeeding

The Work Life Balance and Miscellaneous Provisions Act 2023 extends the entitlement to breastfeeding breaks from six months to two years after the birth of the child. You are entitled, without loss of pay, **at the option of your employer**, to either:

- a reduction in working hours, or
- paid breastfeeding breaks where facilities are provided in the workplace. However, an employer is not required to provide breastfeeding facilities if doing so would give rise to more than a nominal cost.

Time off/reduction in hours is calculated on a pro rata basis for part-time employees. You must give 4 weeks' written notification. However, if you are on 'resumed leave' and such leave is 4 weeks' or less, notice should be given at the same time as giving notice of taking resumed leave.

10. Postponement of Maternity/Additional Maternity Leave

In the event that the baby is hospitalised, it is possible to postpone part of your maternity leave and/additional maternity leave (or part of it) **provided**:

- your employer agrees, and
- you have already taken at least 14 weeks maternity leave, 4 of which are after the end of the week of confinement.
- You can then return to work and take the remainder of your postponed leave (called resumed leave) in one continuous period, to commence within 7 days of the discharge of the baby from hospital.

- The maximum period during which leave can be postponed is 6 months.
- You must notify your employer in writing as soon as reasonably practicable of your intention to take resumed leave, but not later than the day on which the leave is to begin. Your employer may waive such notification.
- If you are absent from work because of illness during the period before you commence your resumed leave, the first day of such absence will be taken to commence your resumed leave, unless you notify your employer in writing that you do not wish to commence your resumed leave. **Your absence will then be treated as sick leave but you will not be entitled to take the resumed leave.**

11. Return to Work

- While you are on maternity leave/additional maternity leave you must give written notification to your employer of your intention to return to work and stating the expected date of return at least 4 weeks' before you expect to return to work.
- If you are taking 'resumed leave' you must give written notification to your employer of your intention to return to work and stating the expected date of return as follows: (a) if the period of resumed leave is 4 weeks' or less, notice to be given at the same time as giving notice of taking resumed leave, or (b) if the period of resumed leave is more than 4 weeks', not later than 4 weeks' before expected date of return to work.
- If the proper notice is not given, it could affect your right to return to work under the Act.

12. Transfer from Additional Maternity Leave to Sick Leave

If you are in the last four weeks of your maternity leave and have notified your employer of your intention to take additional maternity leave, or if you are already on additional maternity leave, and you become ill, you may, subject to the agreement of your employer, terminate your additional maternity leave and commence a period of sick leave. However, you will not be entitled to take any additional maternity leave which was not taken at the date of termination of the leave.

13. Protection of Employment Rights

- You have the right to job protection during maternity leave, additional maternity leave, paternity leave, health and safety leave, attendance at ante-natal and post-natal medical appointments,

attendance at ante-natal classes (described above) and breastfeeding breaks.

- While on leave described above, including additional maternity leave, you are regarded as being in employment and therefore retain all employment rights, such as annual leave, public holidays, increments, seniority, etc. are protected.
- While on health and safety leave you do not have entitlement to time off in lieu of public holidays falling within the period of such leave.
- You have the right to be paid while attending ante-natal and post natal medical care appointments, ante-natal classes (as above) and breastfeeding breaks.
- You have the right to return to the same job or, if this is not possible, the right to suitable alternative work on no less favourable terms and conditions.
- You have the right not to be dismissed, made redundant or suspended while on leave described above.
- You have the right not to be dismissed for any pregnancy related illness from beginning of pregnancy to end of Maternity Leave.

14. Paternity Leave

- From 1st September 2016, fathers/partners are entitled to statutory paternity leave of 2 weeks together with Paternity Benefit.
- You can continue to receive Paternity Benefit for any period of your paternity leave spent in a country outside of the Republic of Ireland (EU and Non-EU).

14. Further Information

Further information is available from the INMO Information Office.

This leaflet is not a legal interpretation of the Maternity Protection Act 1994-2004 (errors and omissions accepted).

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Irish Nurses and Midwives Organisation
Working Together

Maternity Leave Entitlements

(Nurses/Midwives Working in the Private Sector)

The largest Professional Union
for Nurses and Midwives in Ireland
representing over 45,000 members